

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MASONRY SECURITY PLAN OF
WASHINGTON; BAC LOCAL NO. 1
PENSION TRUST; BRICKLAYERS AND
TROWEL TRADES INTERNATIONAL
PENSION FUND; and INDEPENDENT
CONTRACTORS AND BRICKLAYERS AND
ALLIED CRAFTWORKERS LOCAL NO. 1
APPRENTICE TRAINING TRUST,

Plaintiffs,

v.

SPRINGHILL MASONRY, LLC, a Washington
limited liability company,

Defendant.

Case No. 2:20-cv-00443

COMPLAINT FOR EQUITABLE
RELIEF AND FOR MONETARY
DAMAGES

I. PARTIES

1.1 Plaintiff Masonry Security Plan of Washington (“Masonry Health Trust”) is a Taft-Hartley trust fund established to provide one or more employee welfare benefit plans for the participating employees on whose behalf contributions have been paid. The Masonry Health Trust maintains its principal office in Seattle, King County, Washington.

1.2 Plaintiff BAC Local No. 1 Pension Trust (“Masonry Pension Trust”) is a Taft-Hartley trust fund established to provide one or more employee pension benefit plans

1 for the participating employees on whose behalf contributions have been paid, and their
2 beneficiaries. The Masonry Pension Trust maintains its principal office in Seattle, King
3 County, Washington.

4 1.3 Plaintiff Bricklayers and Trowel Trades International Pension Fund (“BAC
5 International Pension Trust”) is a Taft-Hartley trust fund established to provide pension
6 benefits for the participating employees on whose behalf contributions have been paid, and
7 their beneficiaries. The BAC International Pension Trust maintains its principal office in
8 Washington, District of Columbia.

9 1.4 Plaintiff Independent Contractors and Bricklayers and Allied Craftworkers
10 Local No. 1 Apprentice Training Trust (“BAC Apprentice Trust”) is a Taft-Hartley trust
11 fund established to create and administer one or more apprenticeship and training plans.
12 The BAC Training Trust maintains its principal office in Seattle, King County, Washington.

13 1.5 The Plaintiffs are commonly known as and referred to collectively as the
14 Masonry Trust Funds.

15 1.6 Defendant Springhill Masonry, LLC (“Springhill”) is a Washington limited
16 liability company with its principal place of business in Granite Falls, Snohomish County,
17 Washington. At times relevant, Springhill conducted business within this District.

18 **II. JURISDICTION AND VENUE**

19 2.1 This Court has exclusive jurisdiction pursuant to §502(e)(1) of the Employee
20 Retirement Income Security Act of 1974 (“ERISA”), codified at 29 U.S.C. §1132(e)(1).

21 2.2 Venue in this Court is proper pursuant to §502(e)(2) ERISA, codified at 29
22 U.S.C. §1132(e)(2), and pursuant to agreement between the parties.

III. FACTS

3.1 On May 1, 2019, Shane Westing, identifying himself as “President” executed a Compliance Agreement on behalf of Springhill Masonry, LLC with the International Union of Bricklayers & Allied Craftworkers, Local 2 (the “Union”). The Compliance Agreement incorporates by reference the terms and conditions of three master labor agreements, (i) the Independent Masonry Contractors master labor agreement; (ii) the Independent Tile and Terrazzo Contractors master labor agreement; and (iii) the Residential Contractors Agreement (together, the “Master Labor Agreements”):

The UNDERSIGNED EMPLOYER hereby agrees with the INTERNATIONAL UNION OF BRICKLAYERS & ALLIED CRAFTWORKERS UNION, LOCAL NO. 2 WA-ID-MT of the Pacific NW ADC that with respect to all of its employees, it will abide by all of the terms and conditions of the following principal agreement (and amendments thereto) and the terms and conditions of all successive principal agreements (and amendments thereto) as may be executed by the signatory parties.

☒ BRICKLAYERS, STONE MASONS, BLOCKLAYERS, CLEANERS AND CAULKERS, CHEMICAL WORKERS AND MARBLE MASONS, between International Union of Bricklayers & Allied Craftworkers local No. 2 WA-ID-MT of the Pacific NW ADC and INDEPENDENT MASONRY CONTRACTORS (covering all counties identified in the principal agreement);

☒ TILE SETTERS AND TERRAZZO WORKERS, between International Union of Bricklayers & Allied Craftworkers local No. 2 WA-ID-MT of the Pacific NW ADC and INDEPENDENT TILE AND TERRAZZO CONTRACTORS (Covering all counties identified in the principal agreement);

☒ Residential Contractors Agreement.

3.2 By signing the Compliance Agreement, Springhill agreed to make fringe benefit contributions to the Masonry Trust Funds and be bound by the terms and conditions of their respective trust agreements:

1 TRUST OBLIGATIONS REAFFIRMED: The undersigned
 2 employer agrees to make contributions to the applicable health and
 3 welfare trust fund, pension trust fund, training trust fund, and any
 4 other trust funds, as specified in the principal agreement, and does
 5 further agree to abide by all the terms and conditions of the trust
 agreements creating the respective trust funds, and any amendments
 heretofore or thereafter adopted. Further, the employer does accept as
 its lawful representatives, the employer trustees who are now or may
 hereafter serve on the board of trustees of the respective trust funds.

6 3.3 The Masonry Trust Funds are beneficiaries under the terms of the
 7 Compliance Agreement and the Master Labor Agreement.

8 3.4 By executing the Compliance Agreement, as discussed above, Springhill
 9 agreed to the terms of the (i) Masonry Security Plan of Washington; (ii) BAC Local No. 1
 10 Pension Trust; (iii) Bricklayers and Trowel Trades International Pension Fund; and (iv)
 11 Independent Contractors and Bricklayers and Allied Craftworkers Local No. 1 Apprentice
 12 Training Trust.

13 3.5 Springhill's obligations under the Masonry Health Trust are set forth in
 14 Article IX, Sections 1 – 9 of the *Trust Agreement Governing the Masonry Security Plan of*
 15 *Washington*, revised and restated effective March 15, 2012, and as amended. Under the
 16 Masonry Health Trust, Springhill agreed to, among other things:

- 17 ■ Submit its reports on or before the date specified in the underlying
 18 collective bargaining agreement (the 15th day of the calendar month
 following the month in which the contributions are payable);
- 19 ■ Comply with a request to submit any information, data, report or other
 20 documents reasonably relevant to and suitable for purposes of
 administration of the trust, including audits, as requested by the trust
 funds;
- 21 ■ Payment of liquidated damages of ten percent (10%) on all delinquent
 22 contributions, fifteen percent (15%) if suit is filed;
- 23 ■ Payment of interest of twelve percent (12%); and

- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.6 Springhill's obligations under the Masonry Pension Trust are set forth in Article IX, Sections 1 – 9, and Amendment No. 6 of the *Trust Agreement Governing a Joint Labor-Management Employee Pension Benefit Trust Fund*, dated December 30, 1976, and as amended. Under the Masonry Pension Trust, Springhill agreed to, among other things:

- Submit its reports on or before the date specified in the underlying collective bargaining agreement (the 15th day of the calendar month following the month in which the contributions are payable);
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, including audits, as requested by the trust funds;
- Payment of liquidated damages of ten percent (10%) on all delinquent contributions, fifteen percent (15%) if suit is filed;
- Payment of interest of twelve percent (12%); and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.7 Springhill's obligations under the BAC International Pension Trust are set forth in Article IV, Sections 4.1 – 4.6 of the *Restated Agreement and Declaration of Trust of the Bricklayers and Trowel Trades International Pension Fund*, effective December 31, 1988, and as amended. Under the BAC International Pension Trust, Springhill agreed to, among other things:

- Submit its reports on or before the date specified in the underlying collective bargaining agreement (the 15th day of the calendar month following the month in which the contributions are payable);
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, including audits, as requested by the trust funds;

- Payment of liquidated damages of twenty percent (20%) or an additional interest charge of fifteen percent (15%) on all delinquent contributions, whichever is higher;
- Payment of interest of fifteen percent (15%) on all delinquent contributions; and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.8 Springhill's obligations under the BAC Apprentice Trust are set forth in Article IX, Sections 1 – 9 of the *Trust Agreement Governing the Independent Contractors and Bricklayers and Allied Craftworkers Local No. 1 Apprentice Training Trust*, dated May 1, 1997, and as amended. Under the BAC Apprentice Trust, Springhill agreed to, among other things:

- Submit its reports on or before the date specified in the underlying collective bargaining agreement (the 15th day of the calendar month following the month in which the contributions are payable);
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, including audits, as requested by the trust funds;
- Payment of liquidated damages of ten percent (10%) on all delinquent contributions, fifteen percent (15%) if suit is filed;
- Payment of interest of twelve percent (12%); and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.9 Upon information and belief, following execution of the Compliance Agreement, Springhill used employees to perform work subject to the Master Labor Agreement. Springhill also began its monthly reporting and payment of fringe benefit contributions to the Masonry Trust Funds.

3.11 Springhill was sent two written demands to provide the missing monthly remittance reports.

3.12 Springhill was provided blank monthly remittance forms to be filled out and returned to the Masonry Trust Funds' administration office. No reports have been received.

3.13 As of the date of this complaint, Springhill has not provided its monthly remittance reports to the Masonry Trust Funds' administration office for the months of June 2019 through February 2020.

IV. CAUSES OF ACTION

First Cause of Action
(Breach of Labor Agreement/Trust Agreement)

4.1 The Masonry Trust Funds reallege each and every allegation contained in ¶¶3.1 – 3.13, above.

4.2 Springhill's failure to timely report and pay fringe benefit contributions constitutes a breach of the terms of the Compliance Agreement and the Master Labor Agreements between the Union and Springhill, to which the Masonry Trust Funds are beneficiaries. Springhill's failure to timely report and pay fringe benefit contributions also constitutes a breach of the Trust Agreements, the terms of which Springhill agreed to when it signed the Compliance Agreement.

4.3 As a result of Springhill's breach, the Masonry Trust Funds have been damaged in an amount to be proven at trial, plus ancillary charges including liquidated damages, prejudgment interest, attorney fees, and costs of collection.

**Second Cause of Action
(Violation of ERISA)**

4.4 The Masonry Trust Funds reallege each and every allegation contained in ¶¶3.1 – 3.13, above.

4.5 Springhill's failure to report and pay fringe benefit contributions constitutes a violation of §503(a)(3), §515 ERISA, codified at 29 U.S.C. §1132(a)(3), §1145.

4.6 As a result of Springhill's violation, the Masonry Trust Funds have been damaged in an amount to be proven at trial, plus ancillary charges including liquidated damages, prejudgment interest, attorney fees, and costs of collection.

**Third Cause of Action
(Equitable Relief)**

4.7 The Masonry Trust Funds reallege each and every allegation contained in ¶¶3.1 – 3.13, above.

4.8 Springhill's failure to fully comply with its obligations to timely submit monthly remittance reports the Masonry Trust Funds' administration office gives rise for a claim for equitable relief under 29 U.S.C. 1132 (a)(3). Specifically, the Masonry Trust Funds are entitled to an order compelling Springhill to promptly provide its missing monthly remittance reports and related fringe benefit contributions payments.

V. REQUESTED RELIEF

The Plaintiff Masonry Trust Funds respectfully request the Court grant the following relief:

- 1 A. Entry of equitable relief, including an order compelling Springhill to
2 promptly provide its monthly remittance reports and contributions payments
3 for the months of June 2019 through February 2020;
- 4 B. Upon provision of the delinquent monthly remittance reports for the months
5 of June 2019 through February 2020 to the Masonry Trust Funds, then entry
6 of:
7 a. Judgment against Springhill Masonry, LLC, in an amount to be
8 determined at trial for past-due and delinquent fringe benefit
9 contributions as set forth in the monthly remittance reports, and owed
10 by defendant pursuant to the terms of the labor and trust agreements
11 to which Springhill is a party;
12 b. Judgment against Springhill Masonry, LLC, in an amount to be
13 determined at trial for liquidated damages on the amount of fringe
14 benefit contributions set forth in the monthly remittance reports, and
15 owed by defendant pursuant to the terms of the labor and trust
16 agreements to which Springhill is a party;
17 c. Judgment against Springhill Masonry, LLC, in an amount to be
18 determined at trial for prejudgment interest calculated from the due
19 dates of the monthly remittance reports until payment in full or
20 judgment;
- 21 C. An award of attorney fees of not less than \$5,000.00, plus costs of collection,
22 as authorized by the labor and trust agreements to which Springhill is a party,
23 and as authorized under ERISA;
- D. An award of post-judgment interest at the 12% rate specified by the
applicable trust agreements, and as authorized under ERISA; and
- E. Any other such relief under federal law or as is just and equitable.

Dated: March 24, 2020.

s/ Jeffrey G. Maxwell
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